

EXHIBIT 12



September 12, 2023

Mr. James A. Newton
 Partner
 Morrison Foerster
 250 West 55th Street
 New York, NY 10019-9601

By Electronic Mail:
JNewton@mofo.com

Dear Mr. Newton:

I am writing to respond to your correspondence dated March 31, 2023 (“March 31 Letter”), which was a follow-up to the U.S. Department of Education’s (“Department’s”) latest response of December 8, 2022 (“December 8 Letter”) in the ongoing correspondence related to your initial June 2, 2022 letter. This correspondence relates to the Department’s use of the proceeds of certain letters of credit (“LOCs”) posted by Education Management Corporation (“EDMC”) on behalf of institutions owned by EDMC, due to the failure of financial responsibility of EDMC. Thank you for the additional information you provided on April 17, 2023. On May 5, May 25, June 14, and July 3, 2023 the Department provided you with updates on its efforts to verify the liabilities related to closed school loan discharges. Your March 31 Letter indicates that you represent Education Creditor Trust (“ECT”) in its capacity as lender to EDMC and its affiliates under a 2015 credit facility.

EDMC sold many of its institutions to Dream Center Education Holdings (“DCEH”) with closings that occurred in October 2017 and January 2018. As reflected in a series of letters in September and October 2017, the Department required DCEH to post an LOC as a condition of its continued participation following the change in ownership. Ultimately, the Department, EDMC and DCEH agreed that the EDMC LOCs would be retained to provide the required financial security.¹

By its letter dated October 17, 2017, EDMC agreed that the remaining \$107,509,133 in LOCs could “be used to cover the liabilities for all institutions covered under the letters of credit, regardless of ownership.” *See* October 17, 2017 letter from Mark McEachen, President & CEO of EDMC to Michael Frola (“McEachen Letter”) (attached as Exhibit B to the September 16th Letter). These LOCs were a material condition of the institutions’ continued participation in Title IV programs following the change in ownership.

¹ At the time the transaction occurred, the Department held EDMC LOCs in the amount of \$194 million. Pursuant to discussions with EDMC and DCEH in October 2017 (in connection with the change of ownership) the Department released approximately \$87 million in LOCs, so that it only retained \$107 million.

When an institution has failed the Department's financial responsibility standards, the Department requires the institution to post financial protection to avoid the risk of financial losses to taxpayers and students resulting from unpaid liabilities as a result of failed financial stewardship by owners. EDMC agreed, as set forth in the McEachen Letter, that the EDMC LOCs would remain in place until they were replaced, with a deadline for replacement of May 1, 2018. When the LOCs were not extended or replaced prior to May 17, 2018, the Department collected the LOCs, and held the proceeds in escrow. Within a few weeks thereafter (and a mere six months of the acquisition), DCEH threatened to precipitously close the entire chain unless the Department provided it some financial relief. This put the Department in the position of needing to take steps to avoid a precipitous closure of the entire chain. And presumably that was important to the lenders as well, as we understand that at least some group of them continued to provide financing for the transition from EDMC to DCEH, and the later transition of some of the schools from DCEH to Education Principle Foundation ("EPF"). In furtherance of the goal of avoiding a closure of the entire chain, the Department released a portion of the LOC proceeds to fund the teach-out of certain closing DCEH schools between August and December 2018 to allow students at those campuses to be taught out before the campuses closed in December 2018. By doing this, a precipitous closure of the entire chain was avoided. Following negotiations in December 2018 and January 2019 – in which the lenders were actively involved – South University and most of the remaining Art Institutes were sold to EPF and remain open today. In January 2019, in accordance with agreements reached during those negotiations and to facilitate the transfer to EPF, the Department returned \$14,500,000 of the LOC proceeds to the lenders. The Department continues to hold the remaining LOC proceeds in escrow to satisfy losses to the Department. The Department holds \$48,594,113.27 in escrow. In addition to the closed school loan discharges ("CSLD") described below, the escrow is also subject to offset for prior audit and program review liabilities that have been established, but not yet offset.

We thank you for your patience as the Department went through the process of verifying its data related to CSLD. Losses to the Department from CSLD far exceed the amount of the remaining LOC proceeds in escrow, and the CSLD are the focus of this letter. Other Department losses relate to borrower defense claims, close-out audit liabilities, Perkins Loan federal capital contributions that were not returned, and loan cancellations for students at the Illinois Institute of Art and Art Institute of Colorado. Information related to those liabilities, as well as the teach-out expenditures for the campuses that closed in December 2018, were included in the December 8 Letter.

For purposes of this letter only, the Department has limited the CSLD amounts to those loans with a loan period start date on or prior to May 1, 2018 (*i.e.*, before the May 31, 2018 expiration date of the LOC)²:

| OPE ID | School Name | Discharge Amount |
|----------|-------------------------------|------------------|
| 00747000 | Art Institute of Pittsburgh | \$15,881,878 |
| 00781900 | Art Institute of Portland | \$2,443,871 |
| 00835000 | Art Institute of Philadelphia | \$3,135,720 |

² The Department does not concede that CSLD from loan periods starting after May 1, 2018 cannot be satisfied from the LOC proceeds.

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|----------|--|--------------|
| 00887808 | Miami International University of Art & Design - Art Inst of Charlotte | \$603,138 |
| 00887809 | Miami International University of Art & Design - Art Inst Raleigh | \$865,932 |
| 00927002 | Art Institute of Atlanta - Art Institute of Washington | \$2,079,618 |
| 00927003 | Art Institute of Atlanta - Art Institute of Tennessee-Nashville | \$900,687 |
| 00927004 | Art Institute of Atlanta - The Art Institute of Charleston | \$1,325,087 |
| 01019500 | Art Institute of Fort Lauderdale | \$1,799,445 |
| 01258400 | Illinois Institute of Art | \$5,086,532 |
| 01258401 | Illinois Institute of Art - The IL Institute of Art – Schaumburg | \$1,401,629 |
| 01258405 | Illinois Institute of Art - The Art Institute of Michigan | \$3,363,404 |
| 02078900 | Art Institute of Colorado | \$3,496,082 |
| 02179900 | Argosy University | \$2,094,752 |
| 02179901 | Argosy University - Twin Cities | \$4,401,319 |
| 02179902 | Argosy University - Atlanta | \$11,730,201 |
| 02179903 | Argosy University - Washington D.C. Area | \$2,275,322 |
| 02179905 | Argosy University - Hawaii | \$4,009,924 |
| 02179907 | Argosy University - Phoenix | \$29,230,692 |
| 02179908 | Argosy University - San Francisco Bay Area | \$1,996,695 |
| 02179909 | Argosy University - Tampa | \$2,195,653 |
| 02179913 | Argosy University - Seattle | \$444,250 |
| 02179914 | Argosy University - Nashville | \$2,078,619 |
| 02179918 | Argosy University - Sarasota | \$2,008,207 |
| 02179919 | Argosy University - Dallas | \$2,435,543 |
| 02179921 | Argosy University - Schaumburg | \$1,569,889 |
| 02179928 | Argosy University - Los Angeles | \$1,543,569 |
| 02179929 | Argosy University - San Diego | \$496,788 |
| 02179930 | Argosy University - Denver | \$1,073,106 |
| 02179932 | Argosy University - Inland Empire | \$2,596,526 |
| 02179935 | Argosy University - Salt Lake City | \$429,111 |
| 02179936 | Argosy University (Chicago) | \$10,355 |
| 02179937 | Argosy University - Western State University College of Law | \$142,444 |
| 02179938 | Argosy University - The Art Institute of California – Hollywood | \$5,530,069 |
| 02179943 | Argosy University - The Art Institute of California - San Francisco | \$1,377,443 |
| 02179944 | Argosy University - The Art Institute of California - Orange County | \$2,856,468 |
| 02179945 | Argosy University - The Art Institute of California – Sacramento | \$1,710,572 |
| 02179947 | Argosy University - The Art Institute of California - San Diego | \$3,314,456 |

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|-------------|---|---------------|
| 02179948 | Argosy University - The Art Institute of California - Inland Empire | \$4,957,187 |
| 02291300 | Art Institute of Seattle | \$3,297,067 |
| 04051300 | Art Institute of Las Vegas | \$2,198,934 |
| 04051304 | Art Institute of Phoenix - Art Institute of Indianapolis | \$2,270,379 |
| Grand Total | | \$142,658,563 |

For additional context, the Department further narrowed the scope of its data to identify CSLD amounts for loans with loan period start dates on or prior to October 17, 2017 (the date of the first closing of the EDMC – Dream Center transaction):

| OPE ID | School Name | Discharge Amount |
|----------|--|------------------|
| 00747000 | Art Institute of Pittsburgh | \$12,354,624 |
| 00781900 | Art Institute of Portland | \$2,086,200 |
| 00835000 | Art Institute of Philadelphia | \$3,060,593 |
| 00887808 | Miami International University of Art & Design - Art Inst of Charlotte | \$282,315 |
| 00887809 | Miami International University of Art & Design - Art Inst Raleigh | \$353,845 |
| 00927002 | Art Institute of Atlanta - Art Institute of Washington | \$1,694,329 |
| 00927003 | Art Institute of Atlanta - Art Institute of Tennessee-Nashville | \$771,888 |
| 00927004 | Art Institute of Atlanta - The Art Institute of Charleston | \$864,011 |
| 01019500 | Art Institute of Fort Lauderdale | \$1,622,441 |
| 01258400 | Illinois Institute of Art | \$5,469,186 |
| 01258401 | Illinois Institute of Art - The IL Institute of Art - Schaumburg | \$1,408,615 |
| 01258405 | Illinois Institute of Art - The Art Institute of Michigan | \$3,356,217 |
| 02078900 | Art Institute of Colorado | \$3,576,025 |
| 02179900 | Argosy University | \$2,312,637 |
| 02179901 | Argosy University - Twin Cities | \$3,713,830 |
| 02179902 | Argosy University - Atlanta | \$15,774,540 |
| 02179903 | Argosy University - Washington D.C. Area | \$4,023,075 |
| 02179905 | Argosy University - Hawaii | \$3,406,764 |
| 02179907 | Argosy University - Phoenix | \$27,529,403 |
| 02179908 | Argosy University - San Francisco Bay Area | \$2,552,989 |
| 02179909 | Argosy University - Tampa | \$2,078,979 |
| 02179913 | Argosy University - Seattle | \$444,250 |
| 02179914 | Argosy University - Nashville | \$1,813,246 |
| 02179918 | Argosy University - Sarasota | \$2,241,787 |
| 02179919 | Argosy University - Dallas | \$1,975,498 |
| 02179921 | Argosy University - Schaumburg | \$1,600,166 |
| 02179928 | Argosy University - Los Angeles | \$1,376,485 |

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|-------------|---|---------------|
| 02179929 | Argosy University - San Diego | \$368,146 |
| 02179930 | Argosy University - Denver | \$913,187 |
| 02179932 | Argosy University - Inland Empire | \$2,466,139 |
| 02179935 | Argosy University - Salt Lake City | \$259,284 |
| 02179937 | Argosy University - Western State University College of Law | \$120,912 |
| 02179938 | Argosy University - The Art Institute of California – Hollywood | \$4,291,635 |
| 02179943 | Argosy University - The Art Institute of California - San Francisco | \$1,329,113 |
| 02179944 | Argosy University - The Art Institute of California - Orange County | \$2,453,279 |
| 02179945 | Argosy University - The Art Institute of California – Sacramento | \$1,490,222 |
| 02179947 | Argosy University - The Art Institute of California - San Diego | \$2,535,350 |
| 02179948 | Argosy University - The Art Institute of California - Inland Empire | \$3,980,749 |
| 02291300 | Art Institute of Seattle | \$2,524,328 |
| 04051300 | Art Institute of Las Vegas | \$1,763,413 |
| 04051304 | Art Institute of Phoenix - Art Institute of Indianapolis | \$1,926,802 |
| Grand Total | | \$134,166,497 |

As the these charts demonstrate, CSLD relating to loan periods on or before May 1, 2018 far exceed the amount of funds left in the escrow accounts – even after application of the remaining escrow funds, significant unpaid liabilities will remain.

If you have any additional questions or concerns, please contact Michael Powers of my staff at michael.e.powers@ed.gov.

Sincerely,

Michael Frola
Division Chief
Multi-Regional and Foreign Schools Participation Division